

D² Sub E² } 24. (twice amended) Seeds obtained from the plants of claim 23 [wherein such seeds have the desired fatty acid phenotype].

Kindly add the following new claims:

D³ Sub E⁴ } -29. An isolated nucleic acid fragment comprising a nucleic acid sequence selected from the group consisting of (a) a nucleic acid sequence encoding a delta-15 fatty acid desaturase with an amino acid identity of 50% or greater to the polypeptide encoded by SEQ ID NOS:2, 5, 7, 9, 11, 13, 15 or 17 or (b) a nucleic acid sequence or part thereof which is useful in antisense inhibition or sense suppression of endogenous desaturase activity in a transformed plant wherein the nucleic acid sequence encodes a polypeptide with an amino acid identity of 50% or greater to the polypeptide encoded by SEQ ID NOS:2, 5, 7, 9, 11, 13, 15 or 17 or part thereof.

30. An isolated nucleic acid fragment of Claim 29 wherein said fragment is isolated from a plant selected from the group consisting of soybean, oilseed *Brassica* species, *Arabidopsis thaliana* and corn.

31. A chimeric gene capable of causing altered levels of linolenic acid in a transformed plant cell, the gene comprising a nucleic acid fragment of Claim 29, the fragment operably linked to regulatory sequences.

Sub E⁵ } 32. Plants comprising the chimeric gene of claim 31.

33. Seeds obtained from the plants of claim 32.--

Remarks

A Power of Attorney for the undersigned accompanies this response.

Applicants note with appreciation that claim 20 is in form for allowance.

Claims 1 and 24 and 26-28 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 1 has been amended to recite that the nucleic acid sequence encodes a plant plastid or microsomal enzyme which catalyzes the formation of a double bond between carbon positions 3 and 4 numbered from the methyl end of a fatty acyl

chain. The terms fatty acid desaturase and fatty acid desaturase related have been deleted. Support for this amendment can be found in the specification on page 12 at lines 16-21. Thus, no new matter has been added.

Claim 24 has been amended by deleting the language "desired fatty acid phenotype." No new matter has been added.

Claim 24 was rejected under 35 USC §101 as being directed to non-statutory subject matter. The claim has been amended to recite "Seeds obtained from the plants of claim 23." Clearly if a plant comprises a particular chimeric gene in its genome, then seeds obtained from such a plant would also be distinguishable from those which would occur in nature. It is respectfully submitted that claim 24, as amended, is directed to statutory subject matter.

It is respectfully submitted that submission of the Power of Attorney should render the terminal disclaimer proper. Accordingly, the provisional rejection of the claims under the judicially created doctrine of obviousness-type double patenting should be withdrawn in view of the submission of the Power of Attorney.

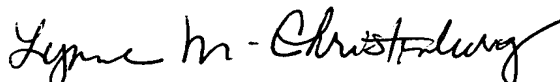
In view of the above discussion, Applicants respectfully request withdrawal of the rejection of the claims under 35 USC §112, paragraph 2.

It is respectfully submitted that the case is now in form for allowance which allowance is respectfully requested.

A Power of Attorney accompanies this response.

Please charge any fees associated with the filing of this response to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company). If the fee is insufficient or incorrect, please charge or credit the balance to the above-identified account.

Respectfully submitted,



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